

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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VICTOR TORREZ-MEJIA,
Petitioner,
v.
JERRY HOWELL, et al.,
Respondents

Case No. 2:18-cv-00681-RFB-VCF

Before the court is petitioner Victor Torrez-Mejia's first-amended § 2254 habeas corpus petition (ECF No. 7). The court has reviewed the amended petition pursuant to Habeas Rule 4, and it shall be served on respondents.

A petition for federal habeas corpus should include all claims for relief of which petitioner is aware. If petitioner fails to include such a claim in his petition, he may be forever barred from seeking federal habeas relief upon that claim. See 28 U.S.C. §2254(b) (successive petitions). If petitioner is aware of any claim not included in his petition, he should notify the court of that as soon as possible, perhaps by means of a motion to amend his petition to add the claim.

Petitioner has also filed a motion for appointment of counsel (ECF No. 2). There is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir.1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir.1986), cert. denied, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), cert. denied, 469 U.S. 838 (1984). However,

1 counsel must be appointed if the complexities of the case are such that denial of counsel
2 would amount to a denial of due process, and where the petitioner is a person of such
3 limited education as to be incapable of fairly presenting his claims. See *Chaney*, 801
4 F.2d at 1196; see also *Hawkins v. Bennett*, 423 F.2d 948 (8th Cir.1970). Here, Torrez-
5 Mejia's first-amended petition reflects that another inmate assisted him in writing the
6 petition, and in his motion for counsel, Torrez-Mejia asserts that he cannot read or write
7 in English. In order to ensure due process, Torrez-Mejia's motion for counsel shall be
8 granted.

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10 **IT IS THEREFORE ORDERED** that the Clerk shall **ELECTRONICALLY SERVE**
11 the amended petition (ECF No. 7) on the respondents.

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13 **IT IS FURTHER ORDERED** that the Clerk shall add Adam Paul Laxalt, Nevada
14 Attorney General, as counsel for respondents.

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16 **IT IS FURTHER ORDERED** that petitioner's motion for appointment of counsel
(ECF No. 2) is **GRANTED**.

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18 **IT IS FURTHER ORDERED** that the Federal Public Defender for the District of
Nevada (FPD) is appointed to represent petitioner.

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20 **IT IS FURTHER ORDERED** that the Clerk shall **ELECTRONICALLY SERVE** the
FPD a copy of this order, together with a copy of the amended petition for writ of habeas
21 corpus (ECF No. 7). The FPD shall have thirty (30) days from the date of entry of this
22 order to file a notice of appearance or to indicate to the court its inability to represent
23 petitioner in these proceedings.

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1 **IT IS FURTHER ORDERED** that after counsel has appeared for petitioner in this
2 case, the court will issue a scheduling order, which will, among other things, set a
3 deadline for the filing of a second amended petition.
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7 DATED this 25th day of June, 2018.
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RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE

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